

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF VIRGINIA
Harrisonburg Division**

Sky Cable, LLC, et al.)	
)	
Plaintiffs,)	
)	
v.)	Civil Action No.: 5:11-cv-00048-MFU
)	
Randy Coley, et al.)	
)	
Defendants.)	

**DEFENDANT DIRECTV, LLC'S MOTION TO COMPEL DISCOVERY
FROM DEFENDANTS RANDY COLEY AND EAST COAST CABLEVISION**

Under Rule 37(a) of the Federal Rules of Civil Procedure, DIRECTV, LLC (“DIRECTV”) moves the Court for an Order compelling judgment debtors Randy Coley and his affiliated entity, East Coast Cablevision, LLC (collectively, “Coley Defendants”) to produce responses to DIRECTV’S discovery requests sent in aid of execution on the judgment. The Coley Defendants were served by mail with interrogatories and requests for production of documents on December 9, 2014. Thus, their responses were due no later than January 12, 2015. Yet the Coley Defendants have not responded to either the interrogatories or document requests, and the responses are now many days overdue. Undersigned counsel contacted defendant Randy Coley on January 16, 2015 to alert him to this deficiency and to propose a “meet and confer” meeting about his responses to the discovery requests in an effort to resolve this issue before filing this motion.¹ Mr. Coley did not respond to that communication.²

¹ On January 9, 2015, the Court issued an order permitting the Coley Defendants’ previous counsel to withdraw and directed Mr. Coley to identify his new counsel by January 16, 2015. (Dkt # 241). Mr. Coley has sent a letter to the

Under Federal Rule of Civil Procedure 69(a)(2), a judgment creditor such as DIRECTV, may, “in aid of the judgment or execution, . . . obtain discovery from any person—including the judgment debtor—as provided in these rules or by the procedure of the state where the court is located.” Rule 37 provides that, if a party resists or objects to discovery, the other party, “upon reasonable notice to other parties and all persons affected thereby, may apply for an order compelling disclosure or discovery” Fed. R. Civ. P. 37(a).

Here, the Coley Defendants have simply failed to respond at all to DIRECTV’s discovery requests. DIRECTV respectfully moves for an order compelling the Coley Defendants to provide full and complete responses to its interrogatories and requests for production, attached hereto as Exhibits A and B, respectively. DIRECTV also requests its attorney’s fees and costs associated with this motion. Under Rule 37(a)(4), DIRECTV is entitled to its “reasonable expenses incurred in making the motion, including attorney’s fees,” unless the court finds that the motion was filed without a good faith effort to obtain the discovery without court action, or that the non-disclosure was substantially justified, or that other circumstances make an award of expenses “unjust.” Here, DIRECTV made a good-faith effort to confer with Mr. Coley (to no avail), there is no justification for his non-response, no other circumstances would make an award of costs and fees unjust.

Court providing his contact information and stating he has yet to find new counsel. (*See* Case No. 5:11cv00123, Dkt # 112)

² The email to Mr. Coley was sent to the address both he and his counsel provided to the Court and counsel.

Dated: January 28, 2015.

/s/ John H. Jamnback

John H. Jamnback (VSB #27818)

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Yarmuth Wilsdon PLLC

818 Stewart Street, Suite 1400

Seattle, WA 98101

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222 Central Park Avenue, Ste. 1700

Virginia Beach, Virginia 23462

Tel: 757- 499-8800

Fax: 757-473-0395

Attorneys for Defendant and Cross-Claimant

DIRECTV, LLC

CERTIFICATE OF SERVICE

I hereby certify that on this date, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to:

Mark Bowman Callahan, callahan@clark-bradshaw.com
Warren David Harless, wharless@cblaw.com
Sherwin John Jacobs, sjjacobs-attorney-510market@msn.com
Paul Wilbur Jacobs, II, pjacobs@cblaw.com

I further certify that I placed in the U.S. Mail, postage prepaid, a copy of the foregoing document addressed to:

Randy Coley
3008 Airpark Road
Fuquay Varina, NC 27526

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Dated this 28th day of January, 2015 at Seattle, Washington.

/s/ John H. Jamnback
John H. Jamnback (VSB #27818)
Email: jjamnback@yarmuth.com
Yarmuth Wilsdon PLLC
818 Stewart Street, Suite 1400
Seattle, WA 98101
Tel: (206) 516-3800
Fax: (206) 516-3888

EXHIBIT A

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF VIRGINIA
Harrisonburg Division**

Sky Cable, LLC, et al.)	
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Plaintiffs,)	
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v.)	Civil Action No.: 5:11-cv-00048-MFU
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Randy Coley, et al.)	
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Defendants.)	

**DIRECTV, LLC's INTERROGATORIES AND REQUEST FOR PRODUCTION OF
DOCUMENTS TO JUDGMENT DEBTOR RANDY COLEY**

TO: Defendant Randy Coley
AND TO: His counsel of record, Paul Beers

DIRECTV, LLC, a judgment creditor herein, and pursuant to Rules 69 and 33 of the Federal Rules of Civil Procedure, submits the following interrogatories to judgment debtor Randy Coley. Each interrogatory is to be answered fully and under oath within thirty (30) days after service hereof. In addition, pursuant to Federal Rule of Civil Procedure 34, judgment creditor DIRECTV, LLC requests production of the documents and things identified in the following Requests for Production of Documents ("Requests") at the offices of Yarmuth Wilsdon PLLC, 818 Stewart Street, Suite 1400, Seattle, Washington 98101, within thirty (30) days after service hereof. The following Requests are for the purpose of obtaining documents, electronic data files and other items identified below.

INSTRUCTIONS

1. If you object to responding to any of these Interrogatories and Requests, in whole or in part, state your objection and state with particularity all of the factual and legal reasons supporting your objection. If you object on the ground of privilege, describe the factual basis for your claim of privilege, including relevant dates, persons involved in the communication, subject matters involved, all persons present when the communication occurred, all persons who have been told about any of the details of the communication and other information that would permit the Court to adjudicate the validity of the claim of privilege. Objections should not be made in a general, blanket fashion. If you object in part to any Interrogatory or Request, respond in full to the remainder.

2. These interrogatories and Requests seek information in your possession, custody or control, and are intended to include information known to or reasonably ascertainable by you or your current or former employees, agents, attorneys, accountants, consultants, representatives or any other persons who have acted in any capacity on your behalf.

3. If the answer to any interrogatory is fully and fairly contained in a document from which the answer can without unreasonable difficulty be extracted, you may answer the interrogatory by attaching a copy of such document.

DEFINITIONS

The term "you," "yourself," and "your" shall refer to judgment debtor Randy Coley and any attorneys or agents who acted behalf on his behalf.

INTERROGATORIES

1. State the full name, address and telephone number of all your employers or businesses from 2004 to the present, and state the nature of your present occupation or employment.

RESPONSE:

2. Do you have any interest in a corporation, partnership, limited liability company, or trust? If so, state the name and address of each such entity, and identify the nature of your interest and any income or distributions you have received from such entity from 2009 to the present.

RESPONSE:

3. Identify by name, address and telephone number each and every domestic and foreign bank and/or financial institution in which you have an account or over which you have signatory authority or other such control, and provide the account number, type of account, and account balance from January 1, 2012 to present. In addition, identify the record owner or title of the account.

RESPONSE:

4. Furnish the following financial information with respect to yourself as of December 1, 2014:

	<u>Assets</u>	<u>Cost (\$)</u>	<u>Fair Market Value (\$)</u>
(1)	Cash		
(2)	Cash surrender value of insurance		
(3)	Accounts receivable		
(4)	Notes receivable		
(5)	Real estate		
(6)	Furniture and fixtures		
(7)	Machinery and equipment		
(8)	Automobiles		
(9)	Pensions or annuities		

- (10) Gold
- (11) Silver
- (12) Jewelry

5. Do you, or any entity you control, own an interest in any house, land, or other real property or have you owned any interest in such property at any time since 2004? If so, please set forth the following information regarding each such property:

- (a) the property's address;
- (b) the type of property (house, condominium, etc.);
- (c) the cost of the property at the time purchased;
- (d) present fair market value of the property;
- (e) any encumbrances against the property and the balance, if any, of the encumbrance (i.e., mortgage, etc.);
- (f) how you titled the property upon its purchase or acquisition;
- (g) how the property is currently titled.

RESPONSE:

6. If you do not own the property where you currently reside, set forth the name, address and telephone number of the person(s) or entity who owns the residence, the amount of your rent, and the frequency with which your rent must be paid.

RESPONSE:

7. Set forth the following information regarding all stocks, bonds, or securities (including, but not limited to, any interest in money market or other mutual funds) owned by you:

<u>Name of Company</u>	<u>Number of Units</u>	<u>Cost</u>	<u>Fair Market Value</u>
------------------------	------------------------	-------------	--------------------------

(a) If you receive any dividends or interest on any stocks, bonds or securities, set forth the date the dividends or interest is payable, and the amount received in the last year.

8. State the following information regarding your income for each of the years 2009 through 2014.

- (a) Salaries, wages, or commissions;
- (b) Dividends;
- (c) Interest;
- (d) Income from business/profession;
- (e) Partnership income;
- (f) Capital gains;
- (g) Annuities and pensions;
- (h) Rents and royalties;

RESPONSE:

9. Have you directly or indirectly transferred, conveyed or disposed of any cash, assets or other items of value with a cost or fair market value of \$1,000.00 or more during the period of 2013 to present? If your answer to this interrogatory is in the affirmative, provide the following information for each such item: description of the property or asset, the date of the transfer, the fair market value when transferred, the consideration received, and the contact information of your relation to the transferee.

RESPONSE:

10. Identify every legal action in which you have been a party from 2004 to the present, including, but not limited to the title of the action, the name of the court, the docket number or date the action was filed, a brief description of the nature of the action, and the result of the legal action (e.g. judgment against a certain amount).

RESPONSE:

11. Identify your interest in the entity called "Its Thundertime LLC," of which you are the sole member, including any income or distributions you have received from this entity from 2009 to the present and any assets you have used or enjoyed since 2009 that are owned or held by this entity (such as a personal residence, other real estate, or vehicles), and/or to the extent you have transferred any assets into Its Thundertime to be held by that entity, identify the nature and amount of such assets as well as when the transferred occurred.

RESPONSE:

12. Identify every loan made to you or was outstanding from you from 2004 to present, including, but not limited to name of the lender, date of the loan, maturity dates, principal amount, rate of interest, collateral or security interest given by you, your purpose in borrowing funds, and date and amount of each repayment.

RESPONSE:

13. State whether you have filed with the Internal Revenue Service Federal Form 1040 income tax returns for the years 2007 to 2013? If your answer is affirmative, state the date that each return was filed;

RESPONSE:

DOCUMENT REQUESTS

1. Provide copies of all documents and/or electronic communications referred to in, or pertaining to, your answers to the above Interrogatories.

RESPONSE:

Dated: December 9, 2014 at Seattle, Washington.

 (by UAT)

John H. Jamnback (VSB #27818)
Yarmuth Wilsdon PLLC
818 Stewart Street, Suite 1400
Seattle, WA 98101
Tel: (206) 516-3800
Fax: (206) 516-3888

Robert E. Travers, IV (VSB No. 66021)
Email: rtravers@williamsmullen.com
Williams Mullen, P.C.
222 Central Park Avenue, Ste. 1700
Virginia Beach, Virginia 23462
Tel: (757) 499-8800
Fax: (757) 473-0395

Attorneys for Defendant DIRECTV, LLC

ANSWERS THERETO DATED this _____ day of _____, 2015.

Randy Coley

CERTIFICATION

The undersigned attorney has read the foregoing Answers to Plaintiff DIRECTV, Inc.'s Interrogatories to Debtor/Defendant Randy Coley, and any objections thereto, and certifies that the answers and objections comply with the Federal Rules of Civil Procedure 26(g).

By: _____
Paul Beers

STATE OF _____)
) ss.
COUNTY OF _____)

I, Randy Coley, being first duly sworn, on oath, depose and say that I have read the foregoing Answers to Plaintiff DIRECTV, Inc.'s Interrogatories to Debtor/Defendant Randy Coley, know the contents thereof, and believe the same to be true.

Randy Coley

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 201__.

Name: _____
 NOTARY PUBLIC in and for the State of
 _____, residing at: _____

 My Commission Expires: _____

CERTIFICATE OF SERVICE

I hereby certify that on this date, I served the foregoing document on the following parties in the manner shown:

Sherwin J. Jacobs
510 East Market Street
Harrisonburg, VA 22801
540.564.1138
Sjjacobs-attorney-510market@msn.com

Attorney(s) for Plaintiffs

VIA U.S. MAIL

Paul G. Beers
Jeremy Carroll
Glenn Feldmann Darby & Goodlatte
37 Campbell Avenue S.W.
Roanoke, VA 24011
540.224.8035
jcarroll@glennfeldmann.com
pbeers@glennfeldmann.com

Attorney(s) for Defendants Randy Coley
and Kimberly Coley

VIA U.S. MAIL

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Dated: December 9, 2014 at Seattle, Washington.

 (by eAT)

John H. Jamnback (VSB #27818)
Yarmuth Wilsdon PLLC
818 Stewart Street, Suite 1400
Seattle, WA 98101
Tel: (206) 516-3800
Fax: (206) 516-3888

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222 Central Park Avenue, Ste. 1700
Virginia Beach, Virginia 23462
Tel: (757) 499-8800
Fax: (757) 473-0395
Attorneys for Defendant DIRECTV, Inc.

EXHIBIT B

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF VIRGINIA
Harrisonburg Division**

Sky Cable, LLC, et al.)	
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Plaintiffs,)	
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v.)	Civil Action No.: 5:11-cv-00048-MFU
)	
Randy Coley, et al.)	
)	
Defendants.)	

**DIRECTV, LLC's INTERROGATORIES AND REQUEST FOR PRODUCTION OF
DOCUMENTS TO JUDGMENT DEBTOR EAST COAST CABLEVISION LLC**

TO: Defendant East Coast Cablevision, LLC

AND TO: Its counsel of record, Paul Beers

DIRECTV, LLC, a judgment creditor herein and pursuant to Rules 69 and 33 of the Federal Rules of Civil Procedure, submits the following interrogatories to judgment debtor East Coast Cablevision, LLC. Each interrogatory is to be answered fully and under oath within thirty (30) days after service hereof. In addition, pursuant to Federal Rule of Civil Procedure 34, judgment creditor DIRECTV, LLC requests production of the documents and things identified in the following Requests for Production of Documents ("Requests") at the offices of Yarmuth Wilsdon PLLC, 818 Stewart Street, Suite 1400, Seattle, Washington 98101, within thirty (30) days after service hereof. The following Requests are for the purpose of obtaining documents, electronic data files and other items identified below.

INSTRUCTIONS

1. If you object to responding to any of these Interrogatories and Requests, in whole or in part, state your objection and state with particularity all of the factual and legal reasons supporting your objection. If you object on the ground of privilege, describe the factual basis for your claim of privilege, including relevant dates, persons involved in the communication, subject matters involved, all persons present when the communication occurred, all persons who have been told about any of the details of the communication and other information that would permit the Court to adjudicate the validity of the claim of privilege. Objections should not be made in a general, blanket fashion. If you object in part to any Interrogatory or Request, respond in full to the remainder.

2. These interrogatories and Requests seek information in your possession, custody or control, and are intended to include information known to or reasonably ascertainable by you or your current or former employees, agents, attorneys, accountants, consultants, representatives or any other persons who have acted in any capacity on your behalf.

3. If the answer to any interrogatory is fully and fairly contained in a document from which the answer can without unreasonable difficulty be extracted, you may answer the interrogatory by attaching a copy of such document.

DEFINITIONS

The term "you," "yourself," and "your" shall refer to judgment debtor East Coast Cablevision, LLC and any agents who acted behalf on its behalf, or any business or company owned or controlled by East Coast Cablevision, LLC.

INTERROGATORIES

1. Do you have any interest in a corporation, partnership, limited liability company, or trust? If so, state the name and address of each such corporation, partnership, limited liability company, or trust, and include the names, addresses and telephone numbers of all other shareholders, members, partners, settlors, trust protectors, trustees, and beneficiaries.

RESPONSE:

2. Identify by name, address and telephone number each and every domestic and foreign bank and/or financial institution in which you have an account or over which you have signatory authority or other such control, and provide the account number, type of account, and account balance from January 1, 2012 to present. In addition, identify the record owner or title of the account.

RESPONSE:

3. Furnish the following financial information with respect to yourself as of December 1, 2014:

	<u>Assets</u>	<u>Cost (\$)</u>	<u>Fair Market Value (\$)</u>
(1)	Cash		
(2)	Accounts receivable		
(3)	Notes receivable		
(4)	Real estate		
(5)	Furniture and fixtures		
(6)	Machinery and equipment		
(7)	Automobiles		

4. Set forth the following information regarding all stocks, bonds, or securities (including, but not limited to, any interest in money market or other mutual funds) owned by you:

<u>Name of Company</u>	<u>Number of Units</u>	<u>Cost</u>	<u>Fair Market Value</u>
------------------------	------------------------	-------------	--------------------------

(a) If you receive any dividends or interest on any stocks, bonds or securities, set forth the date the dividends or interest is payable, and the amount received in the last year.

5. State the following information regarding your income for each of the years 2009 through 2014.

- (a) Income;
- (b) Dividends;
- (c) Interest;
- (d) Rents and royalties;

RESPONSE:

6. Have you directly or indirectly transferred, conveyed or disposed of any cash, assets or other items of value with a cost or fair market value of \$1,000.00 or more during the period of 2009 to present? If your answer to this interrogatory is in the affirmative, provide the following information for each such item: description of the property or asset, the date of the transfer, the fair market value when transferred, the consideration received, and the contact information of your relation to the transferee.

RESPONSE:

7. Identify every legal action in which you have been a party from 2004 to the present, including, but not limited to the title of the action, the name of the court, the docket number or date the action was filed, a brief description of the nature of the action, and the result of the legal action (e.g. judgment against a certain amount).

RESPONSE:

8. Identify every loan made to you or was outstanding from you from 2004 to present, including, but not limited to name of the lender, date of the loan, maturity dates, principal amount, rate of interest, collateral or security interest given by you, your purpose in borrowing funds, and date and amount of each repayment.

RESPONSE:

9. State whether you have filed with the Internal Revenue Service Federal Form 1040 income tax returns for the years 2007 to 2013? If your answer is affirmative, state the date that each return was filed;

RESPONSE:

DOCUMENT REQUESTS

1. Provide copies of all documents and/or electronic communications referred to in, or pertaining to, your answers to the above Interrogatories.

RESPONSE:

Dated: December 9, 2014 at Seattle, Washington.

 (by AT)

John H. Jamnback (VSB #27818)
Yarmuth Wilsdon PLLC
818 Stewart Street, Suite 1400
Seattle, WA 98101
Tel: (206) 516-3800
Fax: (206) 516-3888

Robert E. Travers, IV (VSB No. 66021)
Email: rtravers@williamsmullen.com
Williams Mullen, P.C.
222 Central Park Avenue, Ste. 1700
Virginia Beach, Virginia 23462
Tel: (757) 499-8800
Fax: (757) 473-0395

Attorneys for Defendant DIRECTV, LLC

ANSWERS THERETO DATED this _____ day of _____, 2015.

Randy Coley

CERTIFICATION

The undersigned attorney has read the foregoing Answers to Plaintiff DIRECTV, Inc.'s Interrogatories to Debtor/Defendant Randy Coley, and any objections thereto, and certifies that the answers and objections comply with the Federal Rules of Civil Procedure 26(g).

By: _____
Paul Beers

STATE OF _____)
COUNTY OF _____) ss.

I, Randy Coley, being first duly sworn, on oath, depose and say that I have read the foregoing Answers to Plaintiff DIRECTV, Inc.'s Interrogatories to Debtor/Defendant Randy Coley, know the contents thereof, and believe the same to be true.

Randy Coley

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 2015.

Name: _____
NOTARY PUBLIC in and for the State of _____,
residing at: _____
My Commission Expires: _____

CERTIFICATE OF SERVICE

I hereby certify that on this date, I served the foregoing document on the following parties in the manner shown:

Sherwin J. Jacobs
510 East Market Street
Harrisonburg, VA 22801
540.564.1138
Sjjacobs-attorney-510market@msn.com

Attorney(s) for Plaintiffs

VIA U.S. MAIL


Paul G. Beers
Jeremy Carroll
Glenn Feldmann Darby & Goodlatte
37 Campbell Avenue S.W.
Roanoke, VA 24011
540.224.8035
jcarroll@glennfeldmann.com
pbeers@glennfeldmann.com

Attorney(s) for Defendants Randy Coley
and Kimberly Coley

VIA U.S. MAIL

I declare under penalty of perjury under the laws of United States that the foregoing is true and correct.

Dated: December 9, 2014 at Seattle, Washington.



John H. Jamnback (VSB #27818)
Yarmuth Wilsdon PLLC
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Seattle, WA 98101
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Attorneys for Defendant DIRECTV, Inc.